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Message Text

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ACTION TRSE-00

INFO OCT-01 EUR-25 ISO-00 L-03 SS-20 SP-03 NSC-07 EB-11

CIAE-00 INR-11 NSAE-00 RSC-01 COME-00 DRC-01 /083 W
---------- 055766
R 131442Z AUG 74
FM AMEMBASSY ROME
TO SECSTATE WASHDC 6406

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E.O. 11652: N/A
TAGS: EFIN, IT
SUBJECT: TEXT OF GOI NOTE VERBALE RE US-ITALY DOUBLE TAXATION CONVENTION

PASS TREASURY FOR NATHAN GORDON AND DONALD HENG

REF: (A) STATE 158902 DATED JULY 22, 1974
(B) STATE 159176 DATED JULY 23, 1974
(C) ROME 8768 DATED JUNE 25, 1974
(D) ROME 10279 DATED JULY 26, 1974

1. EMBASSY ON 12 AUGUST RECEIVED FROM MINISTRY OF FOREIGN AFFAIRS AND IS SUBMITTING HEREWITH IN INFORMAL TRANSLATION NOTE VERBALE CONTAINING GOI RESPONSE TO EMBASSY'S NOTE VERBALE NO. 403 DATED JULY 24, 1974 (SEE REFTELS A AND B).

2. BEGIN TEXT: THE MINISTRY OF FOREIGN AFFAIRS PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA AND HAS THE HONOR TO REFER TO THE EMBASSY'S NOTE VERBALE NO. 403 DATED JULY 24, 1974 WHICH PRESENTS THE US GOVERNMENT'S POINT OF VIEW REGARDING THE PROPOSALS OF THE ITALIAN-GOVERNMENT CONCERNING THE APPLICABILITY OF THE ITALY-US CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION, SIGNED AT WASHINGTON ON MARCH 30, 1955.

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3. THE MINISTRY OF FOREIGN AFFAIRS WOULD APPRECIATE

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KNOWNING, FIRST OF ALL, WHETHER, BY VIRTUE OF THE AFORE-
MENTIONED DOCUMENT, THE UNITED STATES GOVERNMENT INTENDS
TO WITHDRAW THE NOTIFICATION OF INTENTION TO TERMINATE
SAID CONVENTION AS EXPRESSED IN THE EMBASSY'S NOTE
VERBALE NO. 318 DATED JUNE 29, 1974.

4. THE MINISTRY OF FOREIGN AFFAIRS, UPON RECEIVING THE
CLARIFICATION REQUESTED ABOVE, AND WITH A VIEW TO
INITIATING CONCRETE MEASURES REGARDING THE AGREEMENT
REACHED BY THE TWO PARTIES, WOULD DEEM IT NECESSARY TO
PROCEED WITH AN EXCHANGE OF NOTES WITH WHICH TO SUBSTI-
TUTE THE LIST OF TAXES CONTAINED IN ARTICLE 1(B) OF THE
CONVENTION WITH THE NEW TAXES TO WHICH THE CONVENTION
SHALL APPLY, I.E., THE "INCOME TAX ON PHYSICAL PERSONS,"
AND THE "INCOME TAX ON JURIDICAL PERSONS,"

5. THE MINISTRY OF FOREIGN AFFAIRS ALSO CONFIRMS THE
AVAILABILITY OF THE ITALIAN GOVERNMENT TO UNDERTAKE
NEGOTIATIONS AS SOON AS POSSIBLE TO EXAMINE THE
PROBLEMS CONNECTED WITH THE ADOPTION IN ITALY OF THE
LOCAL TAX ON INCOME - ILOR - AS WELL AS TO PROCEED
WITH A REVISION AND UPDATING OF THE 1955 CONVENTION.

6. THE MINISTRY OF FOREIGN AFFAIRS SIMILARLY HAS NO
OBJECTIONS TO AGREEING TO THE PROPOSAL OF THE US
GOVERNMENT TO CLARIFY, WITH THE ISSUANCE OF A JOINT
OFFICIAL COMMUNIQUE FOR THE INFORMATION OF INTERESTED
BUSINESSMEN, THE PRACTICAL CONSEQUENCES OF THE SOLUTION
AGREED TO BY OUR TWO COUNTRIES, AS SOON AS THE AFOREMENTIONED
EXCHANGE OF NOTES IS EFFECTUATED.

7. THE MINISTRY OF FOREIGN AFFAIRS AWAITS THE RESPONSE
OF THE US GOVERNMENT TO THE PROPOSALS CONTAINED IN THE
PRESENT NOTE AND TAKES THE OCCASION TO RENEW TO THE
EMBASSY OF THE UNITED STATES OF AMERICA THE ASSURANCES
OF ITS HIGHEST CONSIDERATION. END TEXT.

8. COMMENT: GOI NOTE VERBALE ABOVE DOES NOT ADEQUATELY
RESPOND TO OUR LAST NOTE VERBALE. BECAUSE OF AUGUST
HOLIDAYS, WE UNABLE TO REACH CONTACTS IN MINISTRIES OF
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FINANCE OR FOREIGN AFFAIRS WHO MIGHT CLARIFY GOI POS-
ITION. GOI NOTE DOES NOT STATE SPECIFIC CONCURENCE
WITH USG POSITION CONTAINED IN PARA 1 OF REFTEL A, IN
REFTEL B, AND SUBSEQUENTLY EMBODIED IN EMBASSY'S NOTE
VERBALE NO. 403 CONCERNING USG UNDERSTANDINGS THAT:
(A) THE WITHHOLDING TAX ON DIVIDEND PAYMENTS FROM ITALIAN
CORPORATIONS TO US RESIDENTS OR CORPORATIONS NOT HAVING
A PERMANENT ESTABLISHMENT IN ITALY WILL BE LIMITED

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TO 15 PERCENT (OR 5 PERCENT IF PAID BY A QUALIFYING
95 PERCENT OWNED ITALIAN SUBSIDIARY), AND (B) THAT THERE
WILL BE NO WITHHOLDING AT THE SOURCE ON ROYALTY PAYMENTS
(E.G., FOR ILOR) PAID BY AN ITALIAN LICENSEE TO US
RESIDENTS OR CORPORATIONS NOT HAVING A PERMANENT
ESTABLISHMENT IN ITALY.

9. IN ABSENCE OF SPECIFIC CONCURRENCES BY GOI AND IN
VIEW OF TIGHT SCHEDULE FOR BILATERAL NEGOTIATIONS
WHICH UNLIKELY TO GET UNDER WAY BEFORE EARLY OR MID-SEP-
TEMBER BECAUSE OF ITALIAN SUMMER VACATION PERIOD, EMBASSY
RECOMMENDS THAT DEPARTMENT PREPARE NEW NOTE VERBALE
AGREEING TO GOI PROPOSALS TO MODIFY ARTICLE 1(B) OF
CONVENTION TO SUBSTITUTE PERSONAL INCOME TAX AND CORPORATE
INCOME TAX, BUT ALSO INCLUDING LANGUAGE WHICH WOULD SAY
THAT USG UNDERSTANDS THAT GOI NOW ACCEPTS US INTERPRETATION
OF LIMITATIONS ON WITHHOLDINGS AGAINST DIVIDEND AND
ROYALTY PAYMENTS AS OUTLINED PARA 1 REFTEL A, IN ORDER TO
FORCE GOI TO RESPOND CLEARLY ON THIS ISSUE.

10. EMBASSY HAS ALREADY MADE CLEAR IN DISCUSSIONS WITH
GOI REPS IN MIN FIN AND MIN FA THAT POSITION OUTLINED
IN EMBASSY'S NOTE VERBALE NO. 318 OF USG INTENTION TO
TERMINATE THE CONVENTION WITH EFFECT ON JANUARY 1, 1974
STILL REMAINS IN FORCE BUT IS STILL SUBJECT TO PROVISO
THAT NOTICE OF TERMINATION WOULD BE WITHDRAWN BY USG
PENDING SATISFACTORY RESOLUTION BEFORE JANUARY 1, 1974
OF DIFFICULTIES CONCERNING APPLICATION OF CONVENTION.
WE DO NOT KNOW PURPOSE OF GOI'S RAISING
QUESTION ABOUT US WITHDRAWAL OF TERMINATION NOTIFICATION,
ALTHOUGH MIN FIN DIRECTOR GENERAL SEMPRINI COMPLAINED
OF THIS "SWORD OF DAMOCLES" AT JULY 25 MEETING (REFTEL D).

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11. WE BELIEVE IT ESSENTIAL THAT GOI AND USG WASH REPS
MEET AS SOON AS POSSIBLE. REQUEST AUTHORIZATION TO ARRANGE
MEETING BETWEEN DORDON AND SEMPRINI OF MIN FIN IN WEEK
OF SEPTEMBER 9-13, ASSUMING TIMING IS MUTUALLY AGREEABLE.
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Draft Date: 13 AUG 1974
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